



Malcolm Macpherson

Partner

Indigenous Law
General Business Law
Commercial Real Estate
Energy & Natural Resources

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Profile

Capitalizing on economic development opportunities in the Indigenous context requires technical and pragmatic skills to identify and address problems from both Indigenous and business perspectives. Over the course of the last 15 years, Malcolm has cross-threaded his understanding of these distinct cultural and business contexts to secure successful outcomes for his clients.

Malcolm has significant experience in the large scale economic development of reserve lands. He led a prominent certificate of possession land transaction for clients at the Tsawwassen First Nation over the course of approximately a decade. The land sale involved approximately 120 acres, and the development of nearly one thousand units, representing 1.36-million square feet of product. The value of the improvements, once fully built out, will be approximately \$550-million.

Work Highlights

Tsawwassen Fee Simple Interest Lands - 120 Acre Residential Development

- > 120 acre land assembly and sale to Onni Group

- > Development of approximately one thousand units, representing 1.36-million square feet of product built out
- > Build out value estimated at approximately \$600-million
- > Lead transaction from term sheet to definitive agreement for Tsawwassen First Nation member clients

McLeod Lake Indian Band

- > Negotiated the Impact Benefit Agreement for McLeod Lake Indian Band in respect of the Peace Region Electricity Supply Project, commenced in 2013

Black Swan Energy Ltd.

- > Impact and Benefits Agreement work and negotiations
- > Negotiation strategy and implementation
- > Conflict resolution

Additional work highlights below

Born and raised in Vancouver and of Mi'kmaq and French Metis heritage, Malcolm grew up in a French-speaking household, and still speaks it fluently today. From the outset of his legal career, Malcolm has focused on leading meaningful social and economic transformation for Indigenous communities. He holds the utmost respect for Aboriginal and treaty rights and the litigation and social movements that have transformed them.

Instinctively, he has always known that controlling wealth and control over resources, lands, and laws, is the most effective and efficient method of overcoming economic impoverishment and breathing life to those Indigenous and treaty rights recognized by the Canadian judicial system. In Malcolm's world view, economic development and partnerships are the effective tools available to bring about multi-generational reconciliation and prosperity.

Services

- > Community-based Aboriginal business ventures (buy/sell, joint ventures, management agreements, partnerships and strategic alliances)
- > Financing arrangements (opinions and transactions for First Nations, individuals and businesses)
- > First Nations land development (leasing, financing and structuring developments)
- > Litigation and negotiation between Aboriginal groups and government bodies
- > Consultation and Accommodation (opinions, negotiations, referral response support, drafting C&A policies and agreements)
- > Aboriginal and Treaty Rights (opinions, negotiations and agreements)
- > Impact Benefit Agreements
- > Environmental law and Regulatory Management
- > Resource development (forestry, mining, energy, construction, oil & gas and tourism)
- > Tax (opinions for structuring transactions and business entities)
- > First Nations governance (self-government agreements, land codes, internal governance laws, treaty implementation legislation and regulation, municipal services agreements, tax revenue sharing and taxation regimes)
- > Aboriginal wealth management (trusts, foundations and advisory services)

His practice has led him to many Indigenous communities across the province, in particular the Highway 16 corridor from Fort St. John to Prince Rupert and Kitimat. He spent significant time on Haida Gwaii and developed friendships with master Haida artists and carvers. One standout memory is the time he spent with Jim Hart, a former assistant to artist Bill Reid. In 2016, Malcolm was invited to a potlatch hosted by the eagle clan and given the Haida name "Nang Unsat", which translates to "One Who Knows". Today, he has many longstanding friendships and business relationships with Indigenous leaders and businesspeople across British Columbia.

Malcolm regularly attends to general business law and contract drafting work for his clients in various fields, primarily in the real estate, services, energy, mining, and tourism sectors. He has acted in the capacity of lead negotiator for Canada's largest distributor of natural gas for seven years, and currently carries an active negotiation practice in the energy sector.

One of the takeaway lessons Malcolm has learned in life and in his practice is one has to be open to change and flexible. This perspective has helped him effectively guide his clients through periods of business transition and growth.

Credentials

Industry Involvement

- > Member, Law Society of BC
- > Director, Malaysia Canada Business Council (BC)

Community Commitments

- > Member, British Columbia Metis Federation

Education & Call to Bar

- > Call to Bar: British Columbia, 2003
- > Juris Doctor, Faculty of Law, University of Toronto, 2002

Presentations

- > Aboriginal Lawyers Forum's 8th Annual Retreat, Canadian Bar Association - British Columbia Branch (CLABC), June 2019, Topic: "Perspectives on Resource Development"

Additional Work Highlights

Indigenous Tourism Association of Canada

- > Corporate commercial work
- > Chairing of AGMs
- > Review of industry agreements

Northern Gateway Pipelines Project

- > Lead negotiator for 7 years
- > Energy, regulatory, environmental consultation and engagement
- > Impact and benefits agreement work and negotiations